

Ex. C

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

RESOURCE HEALTH CARE INC.,

Plaintiff,

v.

UNITEDHEALTHCARE INSURANCE  
COMPANY,

Defendant.

§  
§  
§  
§  
§  
§  
§  
§

C.A. No. 4:24-cv-623

**EXHIBIT C - INDEX OF STATE COURT DOCUMENTS**

1. Docket Sheet, C-1;
2. Plaintiff Resource Health Care Inc.'s ("Plaintiff's) Verified Original Petition, filed 7/19/23, C-2;
3. Plaintiff's Request for Citation, filed 9/7/23, C-3;
4. Plaintiff's Verified First Amended Petition, filed 9/7/2023, C-4;
5. Affidavit of Service of Citation, filed 9/28/23, C-5;
6. Defendant UnitedHealth Group d/b/a United Healthcare's Special Appearance, filed 10/13/23, C-6;
7. Plaintiff's Verified Second Amended Petition, filed 1/25/2024, C-7;
8. Defendant UnitedHealthcare Insurance Company's Original Answer, filed 2/15/2024, C-8.

**HCDistrictclerk.com**RESOURCE HEALTH CARE INC vs. UNITEDHEALTH  
GROUP D/B/A UNITED HEALTHCARE

2/22/2024

Cause: 202345113

CDI: 7

Court: 215

**Ex C-1****DOCUMENTS**

<b>Number</b>	<b>Document</b>	<b>Post Jdgm</b>	<b>Date</b>	<b>Pgs</b>
112801770	Defendant's Original Answer		02/15/2024	3
112420717	Plaintiff's Verified Second Amended Petition		01/25/2024	9
110785256	United Health Group's Special Appearance		10/13/2023	7
110527011	Affidavit of Process Server		09/28/2023	2
110164952	Plaintiff's Verified First Amended Petition		09/08/2023	8
110135896	Request for Citation		09/07/2023	3
109266760	Plaintiffs Verified Original Petition		07/19/2023	8

7/19/2023 2:46 PM  
Marilyn Burgess - District Clerk Harris County  
Envelope No. 77683378  
By: Rhonda Momon  
Filed: 7/19/2023 2:46 PM

CAUSE NO. \_\_\_\_\_ **Ex C-2**

<b>RESOURCE HEALTH CARE INC.</b>	§	<b>IN THE DISTRICT COURT OF</b>
	§	
<b>Plaintiff,</b>	§	
	§	
<b>VS.</b>	§	
	§	
<b>UNITEDHEALTH GROUP</b>	§	<b>OF HARRIS COUNTY, TEXAS</b>
<b>d/b/a United Healthcare</b>	§	
	§	
<b>Defendants,</b>	§	<b>JUDICIAL DISTRICT</b>

**PLAINTIFF’S VERIFIED ORIGINAL PETITION**

COMES NOW, Resource Health Care Inc., Plaintiff herein (“Resource” or “Plaintiff”) files its Verified Original Petition complaining of Defendant UnitedHealth Group, d/b/a United Healthcare (the “Defendant” or “United Healthcare”) actions, and inactions and in support thereof respectfully shows the Court as follows:

**I.**

**DISCOVERY CONTROL PLAN**

1. Plaintiff intends to conduct discovery under Level 2 of Rule 190 of the Texas Rules of Civil Procedure unless discovery procedures are otherwise modified by a Court order or agreement between the parties.

**II.**

**PARTIES**

2. Plaintiff is a Texas Corporation with its principal place of business in Harris County, Texas, and is located at 6464 Savoy, Suite 210-A, Houston, TX 77036.

3. Defendant United Healthcare is a Delaware corporation with its principal place of business in Minnetonka, Minnesota. Therefore, Defendant is a citizen of Minnesota for diversity

purposes. It may be served with process by serving the registered of Defendant at The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801, County of New Castle, and by mailing a copy to the Defendant at its principal place of business.

**III.**

**JURISDICTION AND VENUE**

4. Pursuant to Tex. Civ. Prac. & Rem. Code §15.002(a)(1) and (a)(2), this Court has jurisdiction over all parties, and the proper venue is Harris County because a significant portion of the events took place in Harris, County.

**IV.**

**Claims for Relief**

5. Plaintiff seeks monetary relief of \$250,000 or less and non-monetary relief this Court deems appropriate.

**V.**

**Facts**

6. Plaintiff is an in home support care agency providing services in the patients home with the goal of enabling the patient to remain at home.

7. The services provided by Plaintiff may include personal care services such as hands-on assistance with activities of daily living (ADLs), e.g., eating bathing, dressing, and bladder and bowel requirements; homemaker services and instrumental activities of daily living (IADLs), e.g., taking medications, shopping for groceries, laundry, housekeeping, and companionship; and/or supervision or cuing so that a person can perform tasks themselves

8. Plaintiff originally entered into an agreement with Defendant to provide PAS services to its beneficiaries.

9. In 2020, Plaintiff voluntarily terminated its agreement with Defendant to provide Medicare services. Plaintiff wished to continue providing Medicaid services and informed Defendant that it was only terminating the Medicare agreement.

10. Believing there was no issue with the Medicaid agreement between it and Defendant, between July 1, 2020 and November 30, 2020, Plaintiff submitted reimbursable claims to Defendant for Medicaid services. However, Plaintiff but was not paid for the services provided.

11. After speaking with Defendant's agent, Plaintiff was informed the reason for the nonpayment was due to Plaintiff voluntarily terminating its Medicaid agreement. However, Plaintiff *only* terminated its Medicare agreement, not its Medicaid agreement.

12. Plaintiff has attempted to resolve this matter outside of filing the lawsuit, but has been unable to do so.

## **VI.**

### **CAUSES OF ACTION**

#### **Count One: Breach of Contract**

13. Plaintiff realleges each and every allegation stated above and incorporates the same herein, as though set forth at length.

14. Defendant has breached and continue to breach the agreements entered into with Plaintiff for the payment of medical services provided to patients of provider despite the services being provided.

15. Defendants' conduct is the proximate cause of Plaintiffs losses.

16. Plaintiff requests this Court require Defendant to pay Plaintiff for the costs of the outstanding services.

**Count Two: Unjust Enrichment**

17. Plaintiff realleges each and every allegation stated above and incorporates the same herein, as though set forth at length.

18. By failing to pay Plaintiff for the medical services provided to Defendant's beneficiaries, Defendant has been unjustly enriched. Under equitable remedies and quasicontractual recovery principles of unjust enrichment, Defendants owe Plaintiff damages.

19. Defendants by their conduct, have been unjustly enriched.

**VII.**

**DAMAGES**

20. Plaintiff realleges each and every allegation stated above and incorporates the same herein, as though set forth at length.

**General Damages:**

21. Plaintiff has been damaged as a result of Defendant's actions. Plaintiff has suffered damages that are directly and proximately related to the actions of Defendants that are no more than \$250,000 pursuant to Tex. R. Civ. P. 47.

**Special Damages: Lost Revenue, Lost Profits, Lost Value, Benefit of the Bargain**

22. Plaintiff has further suffered expectancy damages. Plaintiff has lost profit that could have been generated by activities had Defendant not breached its contract. Plaintiff has lost the difference in value the company would have been worth, had the contract been fulfilled. Plaintiff has further lost the benefit of the bargain it struck with Defendant. For these reasons, Plaintiff demands these expectancy damages.

**VII.**

**ATTORNEY FEES**

23. Plaintiff seeks an award for reasonable and necessary attorneys' fees and court costs pursuant to applicable law in connection with this case, and any further relief, in law or equity, as the Court shall find to be equitable and just. Reasonable and necessary attorneys' fees may be awarded to Plaintiff under Tex. Civ. Prac. & Rem. Code §38.001 et seq., and any other grounds for attorneys' fees Plaintiff may have.

**X.**

**CONDITIONS PRECEDENT**

24. All conditions precedent to Plaintiff's claim for relief have been performed or have occurred.

**XII.**

**PRAYER**

25. For these reasons, Plaintiff asks that the Defendants be cited to appear to answer and, on the final trial, that Plaintiff be awarded judgment against defendants for the following

- a. Actual damages & Expectancy Damages;
- b. Prejudgment and post-judgment interest;
- c. Attorneys' fees
- d. Court Costs
- e. Or all other relief to which Plaintiff is entitled.

Respectfully submitted,

**KENNEDY**

Attorneys and Counselors at Law

/s/ C. Trey Scott

MARK S. KENNEDY

State Bar of Texas No. 24000122

LURESE A. TERRELL

State Bar of Texas No. 24008139

C. TREY SCOTT

State Bar of Texas No. 24083821

MADISON M. WHITE

State Bar of Texas No. 24126611

12222 Merit Drive, Suite 1750

Dallas, TX 75251

Telephone: (214) 445-0740

Fax: (972) 661-9320

trey@markkennedylaw.com

**ATTORNEYS FOR PLAINTIFF**



CAUSE NO. \_\_\_\_\_

RESROUCE HEALTH CARE INC.	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
VS.	§	
	§	
UNITEDHEALTH GROU	§	OF HARRIS COUNTY, TEXAS
d/b/a United Healthcare	§	
	§	
Defendants,	§	JUDICIAL DISTRICT

VERIFICATION

"I, Matthew Mba, declare from my personal knowledge that the following facts are true:

1. I, Matthew Mba am the Administrator of Resource Health Care, Inc.
2. I have read the Verified First Amended Petition.
3. The facts stated in that complaint are within my personal knowledge and are true and correct.

I verify under penalty of perjury that the foregoing is true and correct.

Executed on June 26, 2023."

Mba Matthew

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Susan Borgsmiller on behalf of Calvin Scott  
 Bar No. 24083821  
 susan@markkennedylaw.com  
 Envelope ID: 77683378  
 Filing Code Description: Petition  
 Filing Description: Petition (\$350.00)  
 Status as of 7/19/2023 2:52 PM CST

## Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Calvin TreyScott		trey@markkennedylaw.com	7/19/2023 2:46:55 PM	SENT
Susan Borgsmiller		susan@markkennedylaw.com	7/19/2023 2:46:55 PM	SENT
Sheena Brewer		sheena@markkennedylaw.com	7/19/2023 2:46:55 PM	SENT
Mark Kennedy		markskennedylaw@msn.com	7/19/2023 2:46:55 PM	SENT

CAUSE NO. 202345113

COPY OF PLEADING PROVIDED BY PLT

Ex C-3

RECEIPT No: 968338  
TRACKING #: 74221266

Plaintiff: RESOURCE HEALTH CARE INC

In The 215th  
Judicial District Court of  
Harris County, Texas

vs.

Defendant: UNITEDHEALTH GROUP D/B/A UNITED  
HEALTHCARE

Houston, Texas

**CITATION – NON RESIDENT**

**THE STATE OF TEXAS**  
**County of Harris**

**To: UNITEDHEALTH GROUP BY SERVING ITS REGISTERED AGENT THE CORPORATION  
TRUST COMPANY OR WHEREVER THE REGISTERED AGENT MAY BE FOUND  
1209 ORANGE STREET  
WILMINGTON DE 19801**

Attached is a copy of: PLAINTIFF'S ORIGINAL PETITION

This instrument was filed on 9/7/2023 12:00:00 AM, in the above cited cause number and court. The instrument attached describes the claim against you.

**YOU HAVE BEEN SUED.** You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration date of 20 days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at [TexasLawHelp.org](https://www.texaslawhelp.org).

This citation was issued on September 7, 2023, under my hand and seal of said court.

Issued at the request of:  
C. Trey Scott  
12222 MERIT DR SUITE 1750  
DALLAS, TX 75251  
214-445-0740



*Marilyn Burgess*

Marilyn Burgess, District Clerk  
Harris County, Texas  
201 Caroline, Houston Texas 77002  
(PO Box 4651, Houston, Texas 77210)

Bar Number: 24083821

Generated By: CONNOR HARRISON

Tracking Number: 74221266

CAUSE NUMBER: 202345113

PLAINTIFF: RESOURCE HEALTH CARE INC

In the 215th

vs.

Judicial District Court of

DEFENDANT: UNITEDHEALTH GROUP D/B/A UNITED HEALTHCARE

Harris County, Texas

OFFICER - AUTHORIZED PERSON RETURN

Came to hand at \_\_\_\_\_ o'clock \_\_\_\_ M. On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
Executed at

(Address) \_\_\_\_\_  
\_\_\_\_\_ in \_\_\_\_\_ County at o'clock \_\_\_\_ M. On the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_, by

Delivering to \_\_\_\_\_ defendant, in person, a true copy of this  
Citation together with the accompanying \_\_\_\_\_ copy (ies) of the \_\_\_\_\_. Petition  
attached thereto and I endorsed on said copy of the Citation the date of delivery.

To certify which I affix my hand officially this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_.

Fees \$ \_\_\_\_\_

\_\_\_\_\_  
Affiant

By \_\_\_\_\_  
Deputy

On this day, \_\_\_\_\_, known to me to be the person whose  
signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that  
this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME, On this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_.

\_\_\_\_\_  
Notary Public

CAUSE NO. 202345113

Ex C-4

RESROUCE HEALTH CARE INC.	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
VS.	§	
	§	
UNITEDHEALTH GROU	§	OF HARRIS COUNTY, TEXAS
d/b/a United Healthcare	§	
	§	
Defendants,	§	215 <sup>th</sup> JUDICIAL DISTRICT

**PLAINTIFF’S VERIFIED FIRST AMENDED PETITION**

COMES NOW, Resource Health Care Inc., Plaintiff herein (“Resource” or “Plaintiff”) files its Verified First Amended Petition complaining of Defendant UnitedHealth Group, d/b/a United Healthcare (the “Defendant” or “United Healthcare”) actions, and inactions and in support thereof respectfully shows the Court as follows:

**I.**

**DISCOVERY CONTROL PLAN**

1. Plaintiff intends to conduct discovery under Level 2 of Rule 190 of the Texas Rules of Civil Procedure unless discovery procedures are otherwise modified by a Court order or agreement between the parties.

**II.**

**PARTIES**

2. Plaintiff is a Texas Corporation with its principal place of business in Harris County, Texas, and is located at 6464 Savoy, Suite 210-A, Houston, TX 77036.

3. Defendant United Healthcare is a Delaware corporation with its principal place of business in Minnetonka, Minnesota. However, Defendant has been and continues to conduct

business in the State of Texas. Further, the actions in this lawsuit arise out of Defendant's conduct in the State of Texas. As such, it may be served with process by serving the registered of Defendant at The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801, County of New Castle, and by mailing a copy to the Defendant at its principal place of business.

**III.**

**JURISDICTION AND VENUE**

4. Pursuant to Tex. Civ. Prac. & Rem. Code §15.002(a)(1) and (a)(2), this Court has jurisdiction over all parties, and the proper venue is Harris County because a significant portion of the events took place in Harris, County.

**IV.**

**Claims for Relief**

5. Plaintiff seeks monetary relief of \$250,000 or less and non-monetary relief this Court deems appropriate.

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**Facts**

6. Plaintiff is an in home support care agency providing services in the patients home with the goal of enabling the patient to remain at home.

7. The services provided by Plaintiff may include personal care services such as hands-on assistance with activities of daily living (ADLs), e.g., eating bathing, dressing, and bladder and bowel requirements; homemaker services and instrumental activities of daily living (IADLs), e.g., taking medications, shopping for groceries, laundry, housekeeping, and companionship; and/or supervision or cuing so that a person can perform tasks themselves.

8. Plaintiff originally entered into an agreement with Defendant to provide PAS services to its beneficiaries.

9. In 2020, Plaintiff voluntarily terminated its agreement with Defendant to provide Medicare services. Plaintiff wished to continue providing Medicaid services and informed Defendant that it was only terminating the Medicare agreement.

10. Believing there was no issue with the Medicaid agreement between it and Defendant, between July 1, 2020 and November 30, 2020, Plaintiff submitted reimbursable claims to Defendant for Medicaid services. However, Plaintiff but was not paid for the services provided.

11. After speaking with Defendant's agent, Plaintiff was informed the reason for the nonpayment was due to Plaintiff voluntarily terminating its Medicaid agreement. However, Plaintiff *only* terminated its Medicare agreement, not its Medicaid agreement. As such, Plaintiff is entitled to payment on the Medicaid claims submitted for payment.

12. Plaintiff has attempted to resolve this matter outside of filing the lawsuit, but has been unable to do so.

## VI.

### CAUSES OF ACTION

#### Count One: Breach of Contract

13. Plaintiff realleges each and every allegation stated above and incorporates the same herein, as though set forth at length.

14. Defendant has breached and continues to breach the agreements entered into with Plaintiff for the payment of personal care services provided to Defendant's beneficiaries despite the services being provided.

15. Defendants' conduct is the proximate cause of Plaintiff's losses.

16. Plaintiff requests this Court require Defendant to pay Plaintiff for the costs of the outstanding services.

**Count Two: Unjust Enrichment**

17. Plaintiff realleges each and every allegation stated above and incorporates the same herein, as though set forth at length.

18. By failing to pay Plaintiff for the medical services provided to Defendant's beneficiaries, Defendant has been unjustly enriched. Under equitable remedies and quasicontractual recovery principles of unjust enrichment, Defendants owe Plaintiff damages.

19. Defendants by their conduct, have been unjustly enriched.

**VII.**

**DAMAGES**

20. Plaintiff realleges each and every allegation stated above and incorporates the same herein, as though set forth at length.

**General Damages:**

21. Plaintiff has been damaged as a result of Defendant's actions. Plaintiff has suffered damages that are directly and proximately related to the actions of Defendants that are no more than \$250,000 pursuant to Tex. R. Civ. P. 47.

**Special Damages: Lost Revenue, Lost Profits, Lost Value, Benefit of the Bargain**

22. Plaintiff has further suffered expectancy damages. Plaintiff has lost profit that could have been generated by activities had Defendant not breached its contract. Plaintiff has lost the difference in value the company would have been worth, had the contract been fulfilled. Plaintiff has further lost the benefit of the bargain it struck with Defendant. For these reasons,



Plaintiff demands these expectancy damages.

**VII.**

**ATTORNEY FEES**

24. Plaintiff seeks an award for reasonable and necessary attorneys' fees and court costs pursuant to applicable law in connection with this case, and any further relief, in law or equity, as the Court shall find to be equitable and just. Reasonable and necessary attorneys' fees may be awarded to Plaintiff under Tex. Civ. Prac. & Rem. Code §38.001 et seq., and any other grounds for attorneys' fees Plaintiff may have.

**X.**

**CONDITIONS PRECEDENT**

25. All conditions precedent to Plaintiff's claim for relief have been performed or have occurred.

**XII.**

**PRAYER**

26. For these reasons, Plaintiff asks that the Defendants be cited to appear to answer and, on the final trial, that Plaintiff be awarded judgment against defendants for the following

- a. Actual damages & Expectancy Damages;
- b. Prejudgment and post-judgment interest;
- c. Attorneys' fees
- d. Court Costs
- e. Or all other relief to which Plaintiff is entitled.

Respectfully submitted,

**KENNEDY**

Attorneys and Counselors at Law

/s/ C. Trey Scott

MARK S. KENNEDY

State Bar of Texas No. 24000122

LURESE A. TERRELL

State Bar of Texas No. 24008139

C. TREY SCOTT

State Bar of Texas No. 24083821

MADISON M. WHITE

State Bar of Texas No. 24126611

12222 Merit Drive, Suite 1750

Dallas, TX 75251

Telephone: (214) 445-0740

Fax: (972) 661-9320

[trey@markkennedylaw.com](mailto:trey@markkennedylaw.com)

**ATTORNEYS FOR PLAINTIFF**

CAUSE NO. \_\_\_\_\_

RESROUCE HEALTH CARE INC.	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
VS.	§	
	§	
UNITEDHEALTH GROU	§	OF HARRIS COUNTY, TEXAS
d/b/a United Healthcare	§	
	§	
Defendants,	§	JUDICIAL DISTRICT

**VERIFICATION**

"I, Matthew Mba, declare from my personal knowledge that the following facts are true:

1. I, Matthew Mba, am the Administrator of Resource Health Care, Inc.
2. As Administrator, I have a thorough knowledge of the billing activities of Resource Health Care, Inc.
3. Additionally, as Administrator, I have knowledge of the contracts and agreements entered into by Resource Health Care., Inc.
4. I have read the Verified First Amended Petition.
5. The facts stated in that complaint are within my personal knowledge and are true and correct.

I verify under penalty of perjury that the foregoing is true and correct.

Executed on September 7, 2023."



9/28/2023 4:34 PM  
Marilyn Burgess - District Clerk Harris County  
Envelope No. 80065625  
By: Brenda Espinoza  
Filed: 9/28/2023 4:34 PM

**AFFIDAVIT OF PROCESS SERVER**

In the 215th Judicial District Court of Harris County, Texas

Resource Health Care Inc.

Plaintiff(s),

VS.

UnitedHealth Group d/b/a United Healthcare

Defendant(s).

Attorney: C. Trey Scott

Kennedy Attorneys & Counselors at Law  
12222 Merit Drive, Suite 1750  
Dallas TX 75251

Ex C-5



\*303721\*

Case Number: 202345113

Legal documents received by Same Day Process Service, Inc. on **09/20/2023** at **2:31 PM** to be served upon **UnitedHealth Group d/b/a United Healthcare**, by serving **The Corporation Trust Company** at **1209 Orange St., Wilmington, DE 19801**

I, **Joseph Leotta, Jr**, swear and affirm that on **September 25, 2023** at **11:43 AM**, I did the following:

Served **UnitedHealth Group d/b/a United Healthcare**, by serving **The Corporation Trust Company** by delivering a conformed copy of the **Citation - Non Resident; Plaintiff's Verified First Amended Petition** to **Chimere Brooks** as **Intake Specialist & Authorized Agent** of **UnitedHealth Group d/b/a United Healthcare**, by serving **The Corporation Trust Company** at **1209 Orange St. , Wilmington, DE 19801**.

**Description of Person Accepting Service:**

Sex: Female Age: 42 Height: 5ft4in-5ft8in Weight: 161-200 lbs Skin Color: African-American Hair Color: Black

**Supplemental Data Appropriate to this Service:**

I declare under penalty of perjury that the foregoing information contained in this affidavit is true and correct and that I am a professional process server over the age of 18 and have no interest in the above legal matter.

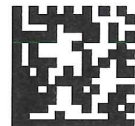
Sworn to and subscribed before me on

September 26, 2023

X  
Notary Public

**Joseph Leotta, Jr**  
Process Server  
Same Day Process Service, Inc.  
1413 K St., NW, 7th Floor  
Washington DC 20005  
(202)-398-4200  
info@samedayprocess.com

Internal Job  
ID:303721



**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Susan Borgsmiller on behalf of Calvin Scott  
 Bar No. 24083821  
 susan@markkennedylaw.com  
 Envelope ID: 80065625  
 Filing Code Description: No Fee Documents  
 Filing Description: Affidavit of Process Server  
 Status as of 9/29/2023 9:02 AM CST

## Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Calvin TreyScott		trey@markkennedylaw.com	9/28/2023 4:34:59 PM	SENT
Susan Borgsmiller		susan@markkennedylaw.com	9/28/2023 4:34:59 PM	SENT
Mark Kennedy		markskennedylaw@msn.com	9/28/2023 4:34:59 PM	SENT
Sheena Brewer		sheena@markkennedylaw.com	9/28/2023 4:34:59 PM	SENT

10/13/2023 11:51 AM  
Marilyn Burgess - District Clerk Harris County  
Envelope No. 80570634  
By: Brenda Espinoza  
Filed: 10/13/2023 11:51 AM

CAUSE NO. 202345113

Ex C-6

RESOURCE HEALTH CARE, INC.,	§	IN THE DISTRICT COURT
	§	
<i>Plaintiff,</i>	§	
v.	§	
	§	215 <sup>TH</sup> JUDICIAL DISTRICT
UNITEDHEALTH GROUP d/b/a	§	
UnitedHealthcare,	§	
	§	
<i>Defendant.</i>	§	HARRIS COUNTY, TEXAS

### **UNITEDHEALTH GROUP'S SPECIAL APPEARANCE**

Defendant UnitedHealth Group Incorporated d/b/a UnitedHealthcare (“UHG”) files its special appearance in response to Plaintiff’s Verified First Amended Petition (“Petition”), pursuant to Tex. R. Civ. P. 120a, and states:

#### **I. FACTUAL BACKGROUND**

Plaintiff alleges UHG is a Delaware corporation with its principal place of business in Minnesota. [Petition, ¶ 3.] Plaintiff is a home support care agency and alleges that it entered into an agreement with UHG to provide Medicare and Medicaid services to UHG’s beneficiaries. [Petition, ¶¶ 8, 14.] Plaintiff alleges that, in 2020, it terminated the agreement with respect to Medicare services but not Medicaid services. [Petition, ¶ 9.] Plaintiff alleges that UHG improperly terminated the agreement for Medicaid services and seeks payment for Medicaid claims thereafter. [Petition, ¶¶ 10-11.]

The only jurisdictional fact Plaintiff alleges is that UHG “engages in business in the State of Texas.” [Petition, ¶ 3.] This is not sufficient to establish jurisdiction. Plaintiff has not attached the alleged agreement or termination letter to the Petition establishing that UHG is a party or signatory to the alleged agreement (it is not), that UHG terminated

the alleged agreement (it did not), or that UHG is an insurance company that issues or administers Medicare or Medicaid coverage (it does not). UHG is not subject to personal jurisdiction in Texas courts for the claims at issue in the lawsuit, and Plaintiff's claims against UHG should be dismissed.

## **II. ARGUMENTS & AUTHORITIES**

### **A. Personal Jurisdiction.**

A non-resident defendant is subject to personal jurisdiction in Texas if (1) the Texas long-arm statute authorizes the exercise of jurisdiction, and (2) the exercise of jurisdiction does not violate constitutional due process. *Kelly v. General Interior Const., Inc.*, 301 S.W.3d 653, 657 (Tex. 2010); *see also Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472–74, 105 S.Ct. 2174, 85 L.Ed.2d 528 (1985) (discussing due process requirements.). The Texas long-arm statute authorizes the exercise of personal jurisdiction only to the extent allowed by the due process clause of the Fourteenth Amendment, therefore a defendant is subject to jurisdiction if the exercise of jurisdiction comports with federal due process. *Kelly*, 301 S.W.3d at 657; Tex. Civ. Prac. & Rem. Code Ann. § 17.041 *et seq.* (West 2012).

The “minimum contacts” prong of the analysis is satisfied when a defendant “purposefully avails itself of the privilege of conducting activities within the forum state, thus invoking the benefits and protections of its laws.” *Hanson v. Denckla*, 357 U.S. 235, 253, 78 S.Ct. 1228, 2 L.Ed.2d 1283 (1958). The nonresident defendant’s availment must be such that the defendant “should reasonably anticipate being haled into court” in the forum state. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297, 100 S.Ct.

559, 62 L.Ed.2d 490 (1980). There are two types of minimum contacts: those giving rise to general jurisdiction and those giving rise to specific jurisdiction. *Searcy v. Parex Resources, Inc.*, 496 S.W.3d 58 (Tex. 2016). General jurisdiction exists where the nonresident's contacts with the forum state are unrelated to the cause of action but are "continuous and systematic," such that the nonresident is "at home" in the forum state. *Id.*; *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014); *Helicopteros Nacionales de Columbia, S.A. v. Hall*, 466 U.S. 408, 414, 104 S.Ct. 1868, 80 L.Ed.2d 404 (1984). Specific jurisdiction is appropriate where the nonresident "purposefully avails itself of conducting activities in the forum state," and "the cause of action arises from or is related to those activities." *Kelly*, 301 S.W.3d at 658.

The plaintiff has the burden of establishing personal jurisdiction. *Kelly v. General Interior Const., Inc.*, 301 S.W.3d 653 (Tex. 2010). When a plaintiff fails to allege that the defendant committed any wrongful acts in Texas, the defendant can defeat jurisdiction by showing it is not incorporated in Texas and does not have its principal place of business in Texas. *See Michiana Easy Livin' Country, Inc. v. Holten*, 168 S.W.3d 777, 791-92 (Tex. 2005).

**B. UHG is Not Subject to General Jurisdiction in Texas.**

The exercise of general jurisdiction over a foreign corporation is generally appropriate only where the entity is incorporated and where it has its principal place of business. *Daimler AG v. Bauman*, 134 S. Ct. 746, 751 (2014); *Searcy v. Parex Resources, Inc.*, 496 S.W.3d 58 (Tex. 2016). Even "continuous activity of some sort within a state is not enough to support the demand that the corporation be amenable to suits unrelated to



that activity.” *Daimler AG*, 134 S. Ct. at 751 (quoting *International Shoe Co. v. Washington*, 326 U.S. 310, 66 S. Ct. 154 (1945)). Further, a formulation that subjects a corporation to general jurisdiction in every state where it “engages in a substantial, continuous, and systematic course of business” is “unacceptably grasping.” *Id.* at 761. The exercise of general jurisdiction is a “high bar,” and even ownership of an in-state subsidiary is insufficient to create jurisdiction. *Searcy*, 496 S.W.3d at 72-73.

In this case, there is no basis for asserting general jurisdiction over UHG in Texas. Plaintiff concedes UHG is neither incorporated nor has its principal place of business in Texas. [Petition, ¶ 3.] UHG is not subject to general jurisdiction merely because it or its affiliates do business in Texas. *Daimler*, 134 S. Ct. at 751; *see also Brown v. Lockheed Martin Corp.*, 814 F.3d 619, 626-29 (2d Cir. 2016) (holding that a company was not subject to general jurisdiction merely because it was licensed to do business in a state); *American Ins. Co. v. R&Q Reinsurance Co.*, 2016 WL 5930589 at \*2-3 (N.D. Cal. Oct. 12, 2016) (holding that an insurance company was not subject to general jurisdiction merely because it sold insurance in a state). There simply is no basis to subject UHG to general jurisdiction in Texas.

**C. UHG is Not Subject to Specific Jurisdiction in Texas.**

To establish specific jurisdiction, Plaintiff must show, among other things, that its claims arise out of UHG’s activities in Texas. *Kelly*, 301 S.W.3d at 658; *Searcy*, 496 S.W.3d at 67-68. “[T]he mere fact that a defendant’s conduct affected plaintiffs with connections to the forum state does not suffice to authorize jurisdiction.” *Searcy*, 496 S.W.3d at 68. Specific jurisdiction cannot be based on “random, isolated, or fortuitous”

or of the “unilateral activity of another party or third person.” *Michiana Easy Livin’ Country, Inc. v. Holten*, 168 S.W.3d 777, 785 (Tex. 2005).

In this case, Plaintiff cannot show that its causes of action arise from UHG’s contacts with Texas, or that UHG is a party or signatory to the alleged agreement (it is not), terminated the alleged agreement (it did not), or is an insurance company that issues or administers Medicare or Medicaid coverage (it does not).<sup>1</sup> Even assuming UHG contracted with Plaintiff, this allegation, even if true (which it is not), would be insufficient to establish the minimum contacts necessary for specific jurisdiction, because simply contracting with another foreign corporation who does business in Texas is insufficient to establish jurisdiction. *Id.* As the Fifth Circuit explained in *McFadin* in holding that minimum contacts did not exist:

It is clearly established that “merely contracting with a resident of the forum state does not establish minimum contacts.” Jurisdiction must not be based on the fortuity of one party residing in the forum state. The *McFadins* rely on the fact that the contract created a ten-year sales representation relationship between the parties and that there were significant communications—including sales orders and commission payments—between Grenemyer in Colorado and the *McFadins* in Texas. In addition, the *McFadins* point to the sales by Grenemyer to Texas residents. These contacts are insufficient.

*McFadin*, 587 F.3d at 760. Accordingly, UHG is not subject to specific jurisdiction in Texas.

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<sup>1</sup> UHG is the ultimate parent company of, among others, subsidiary entities that issue or administer Medicaid and Medicare products.

### **III. CONCLUSION**

In view of the foregoing, UHG respectfully requests that the Court enter an order dismissing it from this litigation.

Dated: October 13, 2023

Respectfully submitted,

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*Tex. R. Civ. P. 502.5(3) Statement:*  
*Defendant consents to email service through*  
*its counsel of record as identified above.*

### **CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing document has been served via efile.txcourts.gov on the parties listed below on October 13, 2023.

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/s/ Andrew G. Jubinsky  
Andrew G. Jubinsky

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CAUSE NO. 202345113

Ex C-7

RESOURCE HEALTH CARE INC.	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
VS.	§	OF HARRIS COUNTY, TEXAS
	§	
UNITED HEALTHCARE INSURANCE	§	
COMPANY	§	
	§	
Defendants,	§	215 <sup>th</sup> JUDICIAL DISTRICT

**PLAINTIFF’S VERIFIED SECOND AMENDED PETITION**

COMES NOW, Resource Health Care Inc., Plaintiff herein (“Resource” or “Plaintiff”) files its Verified Second Amended Petition complaining of Defendant United Healthcare Insurance Company (the “Defendant” or “United Healthcare”) actions, and inactions and in support thereof respectfully shows the Court as follows:

**I.**

**DISCOVERY CONTROL PLAN**

1. Plaintiff intends to conduct discovery under Level 2 of Rule 190 of the Texas Rules of Civil Procedure unless discovery procedures are otherwise modified by a Court order or agreement between the parties.

**II.**

**PARTIES**

2. Plaintiff is a Texas Corporation with its principal place of business in Harris County, Texas, and is located at 6464 Savoy, Suite 210-A, Houston, TX 77036.

3. Defendant United Healthcare Insurance Company is a corporation with its principal place of business at 185 Asylum Street, Hartford, Connecticut 06103. However,

Defendant has been and continues to conduct business in the State of Texas. Further, the actions in this lawsuit arise out of Defendant's conduct in the State of Texas.

**III.**

**JURISDICTION AND VENUE**

4. Pursuant to Tex. Civ. Prac. & Rem. Code §15.002(a)(1) and (a)(2), this Court has jurisdiction over all parties, and the proper venue is Harris County because a significant portion of the events took place in Harris, County.

**IV.**

**Claims for Relief**

5. Plaintiff seeks monetary relief of \$250,000 or less and non-monetary relief this Court deems appropriate.

**V.**

**Facts**

6. Plaintiff is an in-home support care agency providing services in the patients' home with the goal of enabling the patient to remain at home.

7. The services provided by Plaintiff may include personal care services such as hands-on assistance with activities of daily living (ADLs), e.g., eating bathing, dressing, and bladder and bowel requirements; homemaker services and instrumental activities of daily living (IADLs), e.g., taking medications, shopping for groceries, laundry, housekeeping, and companionship; and/or supervision or cuing so that a person can perform tasks themselves.

8. Plaintiff originally entered into an agreement with Defendant to provide PAS services to its beneficiaries.

9. In 2020, Plaintiff voluntarily terminated its agreement with Defendant to provide

Medicare services. Plaintiff wished to continue providing Medicaid services and informed Defendant that it was only terminating the Medicare agreement.

10. Believing there was no issue with the Medicaid agreement between it and Defendant, between July 1, 2020 and November 30, 2020, Plaintiff submitted reimbursable claims to Defendant for Medicaid services. However, Plaintiff but was not paid for the services provided.

11. After speaking with Defendant's agent, Plaintiff was informed the reason for the nonpayment was due to Plaintiff voluntarily terminating its Medicaid agreement. However, Plaintiff *only* terminated its Medicare agreement, not its Medicaid agreement. As such, Plaintiff is entitled to payment on the Medicaid claims submitted for payment.

12. Plaintiff has attempted to resolve this matter outside of filing the lawsuit, but has been unable to do so.

## VI.

### **CAUSES OF ACTION**

#### **Count One: Breach of Contract**

13. Plaintiff realleges each and every allegation stated above and incorporates the same herein, as though set forth at length.

14. Defendant has breached and continues to breach the agreements entered into with Plaintiff for the payment of personal care services provided to Defendant's beneficiaries despite the services being provided.

15. Defendants' conduct is the proximate cause of Plaintiff's losses.

16. Plaintiff requests this Court require Defendant to pay Plaintiff for the costs of the outstanding services.

**Count Two: Unjust Enrichment**

17. Plaintiff realleges each and every allegation stated above and incorporates the same herein, as though set forth at length.

18. By failing to pay Plaintiff for the medical services provided to Defendant's beneficiaries, Defendant has been unjustly enriched. Under equitable remedies and quasicontractual recovery principles of unjust enrichment, Defendants owe Plaintiff damages.

19. Defendants by their conduct, have been unjustly enriched.

**VII.**

**DAMAGES**

20. Plaintiff realleges each and every allegation stated above and incorporates the same herein, as though set forth at length.

**General Damages:**

21. Plaintiff has been damaged as a result of Defendant's actions. Plaintiff has suffered damages that are directly and proximately related to the actions of Defendants that are no more than \$250,000 pursuant to Tex. R. Civ. P. 47.

**Special Damages: Lost Revenue, Lost Profits, Lost Value, Benefit of the Bargain**

22. Plaintiff has further suffered expectancy damages. Plaintiff has lost profit that could have been generated by activities had Defendant not breached its contract. Plaintiff has lost the difference in value the company would have been worth, had the contract been fulfilled. Plaintiff has further lost the benefit of the bargain it struck with Defendant. For these reasons, Plaintiff demands these expectancy damages.



**VII.**

**ATTORNEY FEES**

24. Plaintiff seeks an award for reasonable and necessary attorneys' fees and court costs pursuant to applicable law in connection with this case, and any further relief, in law or equity, as the Court shall find to be equitable and just. Reasonable and necessary attorneys' fees may be awarded to Plaintiff under Tex. Civ. Prac. & Rem. Code §38.001 et seq., and any other grounds for attorneys' fees Plaintiff may have.

**X.**

**CONDITIONS PRECEDENT**

25. All conditions precedent to Plaintiff's claim for relief have been performed or have occurred.

**XII.**

**PRAYER**

26. For these reasons, Plaintiff asks that the Defendants be cited to appear to answer and, on the final trial, that Plaintiff be awarded judgment against defendants for the following

- a. Actual damages & Expectancy Damages;
- b. Prejudgment and post-judgment interest;
- c. Attorneys' fees
- d. Court Costs
- e. Or all other relief to which Plaintiff is entitled.

Respectfully submitted,

**KENNEDY**

Attorneys and Counselors at Law

/s/ C. Trey Scott

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**ATTORNEYS FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing document was submitted and served on counsel for all parties through the Court's electronic services system, on this 25<sup>th</sup> day of January 2024.

/s/ C. Trey Scott

C. TREY SCOTT

**CAUSE NO. 202345113**

<b>RESOURCE HEALTH CARE INC.</b>	§	<b>IN THE DISTRICT COURT OF</b>
	§	
<b>Plaintiff,</b>	§	
	§	
<b>VS.</b>	§	<b>OF HARRIS COUNTY, TEXAS</b>
	§	
<b>UNITED HEALTHCARE INSURANCE</b>	§	
<b>COMPANY</b>	§	
	§	
<b>Defendants,</b>	§	<b>215<sup>th</sup> JUDICIAL DISTRICT</b>

**VERIFICATION**

“I, Matthew Mba, declare from my personal knowledge that the following facts are true:

1. I, Matthew Mba, am the Administrator of Resource Health Care, Inc.
2. As Administrator, I have a thorough knowledge of the billing activities of Resource Health Care, Inc.
3. Additionally, as Administrator, I have knowledge of the contracts and agreements entered into by Resource Health Care., Inc.
4. I have read the Verified Second Amended Petition.
5. The facts stated in that complaint are within my personal knowledge and are true and correct.

I verify under penalty of perjury that the foregoing is true and correct.

Executed on December 15, 2023.”



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CAUSE NO. 202345113

RESOURCE HEALTH CARE INC.,	§	IN THE DISTRICT COURT OF	<b><u>Ex C-8</u></b>
	§		
<i>Plaintiff,</i>	§		
v.	§		
	§	HARRIS COUNTY, TEXAS	
UNITEDHEALTHCARE	§		
INSURANCE COMPANY,	§		
	§		
<i>Defendant.</i>	§	215 <sup>TH</sup> JUDICIAL DISTRICT	

**DEFENDANT'S ORIGINAL ANSWER**

Defendant UnitedHealthcare Insurance Company ("UHIC") files this Original Answer to Plaintiff Resource Health Care Inc.'s ("Plaintiff") Verified Second Amended Petition ("Petition"), and states:

**I. GENERAL DENIAL**

Subject to such admissions and stipulations as may be made at or before the time of trial, UHIC denies generally and specially the material allegations contained in the Petition and demands strict proof thereof in accordance with the requirements of the laws of this State.

**II. PRAYER**

UHIC requests the following relief:

- (a) That Plaintiff take nothing by reason of its suit;
- (b) That UHIC be dismissed with its costs; and
- (c) That UHIC have such other and further relief, both general and special, at law and in equity, to which it may show itself justly entitled.

Dated: February 15, 2024

Respectfully submitted,

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*Defendant consents to email service through*  
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/s/ Saheli Chakrabarty  
Saheli Chakrabarty

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